

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CLARENCE MCNAIR,

Plaintiff,

vs.

DAVID VEST,

Defendant.

Case No. 3:18-CV-00451-RCJ-CLB

ORDER

Plaintiff has filed four motions: a motion objecting to Magistrate Judge Carrie Baldwin's minute order, a motion for default judgment, and two motions requesting to be informed when these motions will be heard. (ECF Nos. 32, 34, 37, and 40.) For the reasons stated herein, the Court denies these motions.

First, Plaintiff objects to the interlocutory order, (ECF No. 31). In that order, the Magistrate Judge held a hearing and denied three of Plaintiff's motions because the only defendant in this case, Defendant David Vest, had not been served. Defendant is no longer an employee of Nevada, and the Nevada Attorney General's office has been unable to communicate with him for this case. At that time, the United States Marshals Service (USMS) was attempting to serve Defendant. Since then, the USMS has returned service unexecuted because Defendant no longer resides at the

1 last known address. (ECF No. 35.) Plaintiff objects to the order because during the hearing, the
2 Magistrate Judge instructed him not to file further documents because, until Defendant is served,
3 the case is not actually proceeding against him. This order is correct, because until Defendant is
4 served, there is little that this Court has the authority to do. Thus, the Court denies the motion.

5 Second, Plaintiff moves for default judgment. This motion is flawed because, as discussed
6 above, Defendant has still not been properly served. "To authorize a default judgment, process
7 must be properly served on the defendant in the manner prescribed by the applicable statute or
8 rules of procedure." 49 C.J.S. *Judgments* § 261 (2020). The Court therefore denies this motion.

9 Third, Plaintiff twice requests to know when his motions will be heard. As the Court denies
10 them, it denies these remaining requests as moot.

11 CONCLUSION

12 IT IS HEREBY ORDERED that Plaintiff's Objection to Interlocutory Order (ECF No. 32)
13 is DENIED.

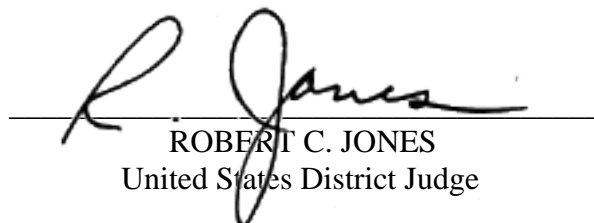
14 IT IS FURTHER ORDERED that Plaintiff's Motion for Default Judgment (ECF No. 34)
15 is DENIED.

16 IT IS FURTHER ORDERED that Plaintiff's Motion for Status (ECF No. 37) is DENIED
17 AS MOOT.

18 IT IS FURTHER ORDERED that Plaintiff's Motion for Status (ECF No. 40) is
19 DENIED AS MOOT.

20 IT IS SO ORDERED.

21 Dated October 9, 2020.

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23 
24 ROBERT C. JONES
United States District Judge